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# IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Report by Mr. Maurice Glèlè-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, submitted pursuant to Commission on Human Rights resolution 1993/20 and 1995/12

Addendum

## Report of the Special Rapporteur on his mission to France from 29 September-9 October 1995

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## INTRODUCTION

### Purpose of the mission

1. In accordance with Commission on Human Rights resolutions 1993/20 and 1995/12, the Special Rapporteur carried out a fact-finding mission to France from 29 September to 9 October 1995.

2. This visit was prompted by the multiplication, since 1990, of racist and xenophobic incidents targeting immigrants and of anti-Semitic acts, which the French National Consultative Commission on Human Rights had noted in its reports for 1991, 1992, 1993 and 1994. Other information received by the Centre for Human Rights also included allegations of ill-treatment by the police of prisoners from countries in the Maghreb, the Middle East and Africa. 1/

3. The Special Rapporteur therefore wished to obtain information regarding the measures taken by the French Government and developments in the situation.

### Chronology of the mission

4. The Special Rapporteur began his mission in Strasbourg, where he met with Mr. Edmond Stenger, Government Procurator, and Mr. Jean-Luc Faivre, Director of Public Security of the Department of Bas-Rhin. He also met with Mr. René Gutman, Chief Rabbi of Strasbourg.

5. While in the city, he visited the Maison des droits de l'homme (Human Rights House), where he participated in a very productive meeting with the European Commission against Racism and Intolerance (ECRI).

6. The Special Rapporteur then visited Paris, where he took part in meetings with senior officials of the Ministry of Justice, the Ministry of National Education, the Ministry of Integration, the National Employment Agency (ANPE), the National Institute for Statistics and Economic Studies (INSEE) and the French Office for Refugees and Stateless Persons (OFRPA). He also participated in a meeting with the National Consultative Commission on Human Rights, chaired by Mr. Paul Bouchet.

7. He met with representatives of the General Workers' Confederation (Confédération générale des travailleurs) (CGT) and the French Democratic Labour Confederation (Confédération française démocratique du travail) (CFDT) a representative of the Force ouvrière (FO) trade union and several representatives of non-governmental organizations (NGOs) working to combat racism and discrimination and to promote and protect human rights in general. The names of these individuals are indicated in the programme of the mission.

8. The Special Rapporteur continued his mission by travelling to Lyon, Marseille and Toulon, where he met with prefectural and municipal authorities. However, in Toulon, Ms. Guillet de la Brosse, the Deputy Mayor, who is a

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1/ See Amnesty International, France, Shootings, killings and alleged ill-treatment by law enforcement officers (London, 12 October 1994).

member of the National Front, refused to meet with the Special Rapporteur, cancelling the meeting on one day's notice without giving any reason for her refusal.

9. In Paris, the Special Rapporteur met with Mr. Jean Glinasty, Director of the Office of International Organizations in the Ministry of Foreign Affairs.

10. The detailed programme of the mission is annexed to this report (annex I).

11. The Special Rapporteur wishes to thank the French Government for its welcome, its meticulous organization of this visit and the availability of its representatives. He also thanks the representatives of trade unions and non-governmental organizations who graciously spent time with him.

Preliminary observations

12. France is experiencing problems with the integration of foreign populations or French citizens of foreign origin that are typified by the "problem suburbs" on the outskirts of several large cities. In these suburbs, where there are concentrations of immigrant populations which seem to have been left behind by the process of the development of French society, there are tensions that originate in the economic crisis and its corollary, social exclusion, a national identity crisis, ethno-cultural problems, discriminatory practices, particularly in the fields of employment and housing, and a degree of xenophobia in people's way of thinking.

13. The wave of xenophobia currently sweeping over France feeds on the attitudes adopted and statements made for electioneering purposes by politicians, on both the right and the left. It is not attributable only to the far right, which makes foreigners the scapegoats, particularly if they are Black, Arab or Muslim. Xenophobia in France today is sustained by the Pasqua Acts, which, it must not be forgotten, are laws of the French Republic.

14. The economic crisis, on the one hand, and the identity crisis, on the other, are aggravated by the claims of people of French stock to ascendency over naturalized French citizens and immigrants; hence the reference to the theme of national preference, with its xenophobic and even racist content, in political speeches.

15. There has also been an increase in anti-Semitic incidents (desecration of cemeteries, graffiti, dissemination of publications) which reflect the growth of anti-Semitism.

16. The French authorities have evaluated the scope of such phenomena and are trying to reverse these trends by strengthening anti-racist legislation. Measures have also been taken in the economic and social fields (urban policies) to encourage the gradual integration of immigrant populations and appeals by associations for tolerance and respect for the dignity of others are helping to bring about a change in attitudes.

Composition of the population 2/

17. Metropolitan France has 57.2 million inhabitants, of whom 3,580,000 are foreigners (6.3 per cent). According to the last census, conducted in 1985, the foreign population remains numerically stable, a fact which tends to call into question alarmist statements about "the invasion of France by foreigners". This population is composed mainly of:

| | |
|---|---|
| Portuguese: | 649,714 |
| Algerians: | 614,207 |
| Moroccans: | 572,652 |
| Italians: | 252,759 |
| Spaniards: | 216,047 |
| Tunisians: | 206,336 |
| Turks: | 197,712. |

18. The fact that no statistics on foreigners from countries in Black Africa have been provided by the French authorities suggests that the former account for a very small percentage of the foreign population in France. It may therefore be asked why they are among the most frequent victims of xenophobia and racial discrimination, as will be seen below.

## I. MANIFESTATIONS OF CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION AND INCIDENTS

### A. Racial discrimination and exclusion

19. According to a study by the National Institute for Demographic Studies (INED), 3/ racial discrimination against persons of non-European origin is particularly evident in two areas: employment and housing. Immigrant populations and, in general, persons of certain ethnic origins have problems obtaining decent housing suited to the size of their households and experience excessively high levels of unemployment. The survey, which is based on the way the victims of discrimination perceive discriminatory acts and on the perceptions of other persons residing in France, makes it possible to understand the discriminatory practices of the actors involved (institutions, employers, employment agencies, temporary employment agencies, owners, real estate agencies, etc.), which are difficult to observe in action.

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2/ The statistics provided in this section are taken from the eleventh periodic report of France to the Committee on the Elimination of Racial Discrimination (CERD/C/225/Add.2, para. 10).

3/ INED, Etude sur la mobilité géographique et l'insertion sociale (Paris, 1992).

Table 1

Categories of foreigners or persons of foreign origin considered by the population resident in France to be most affected by discrimination in hiring

(by percentage)

| Categories discriminated against | Men | Women | Total |
|---|---|---|---|
| Total of Arabs, Maghrebis and North Africans | 74.1 | 79.6 | 76.9 |
| Algerians | 9.5 | 13.0 | 11.3 |
| Moroccans | 0.8 | 0.4 | 0.6 |
| Total of Black Africans and persons of colour | 15 | 11 | 13 |
| Total of Arabs and Black Africans | 89.5 | 90.4 | 89.9 |
| Total of other nationalities or geographical areas | 0.6 | 2.1 | 1.4 |
| Total of replies, by skin colour: Non-whites, Blacks, persons of colour | 5.6 | 4.4 | 5.0 |
| Total of replies of a religious nature | 0.3 | 0.4 | 0.4 |
| Total of replies with pejorative connotations | 0.2 | 0.3 | 0.3 |
| Weighted total | 7 981 376 | 8 254 347 | 16 235 723 |
| Non-weighted total | 474 | 506 | 980 |

Source: National Institute for Demographic Studies (INED). MGIS survey carried out in cooperation with the National Institute for Statistics and Economic Studies (INSEE), 1992.

20. It is thus clear that immigrants from Algeria, other Maghrebi countries (Morocco and Tunisia) and Black Africa experience the greatest discrimination in hiring (see table 1), followed by individuals from Turkey and, to a lesser extent, those from South-East Asia.

21. Other studies confirm this situation and demonstrate that the unemployment level among young Maghrebis and Africans is considerably higher than the average. 4/ This is explained by the "suspicious appearance", which

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4/ Les étrangers dans le monde du travail", in Hommes et migrations, No. 1187 (May 1995), p. 9.

is a handicap for these young people, since their Black or Maghrebi appearance does not inspire confidence on the part of employers. Their family names (Muslim or African) and addresses (often in the so-called "trouble spot" suburbs) 5/ are also obstacles to employment.

22. Discriminatory practices in employment seem to be becoming more widespread as a result of the economic crisis and the rise in xenophobia. The press publishes questionable announcements such as "White woman wanted to care for elderly lady", "No persons of colour. Impossible" and "Position for intern of French cultural origin". 6/ Temporary employment agencies are said to use a discrete code in which the coded abbreviation "BBR" ("bleu, blanc, rouge"; blue, white, red) indicates that only white French persons need apply for a particular job. 7/ Various other discriminatory pretexts are used by employers in order systematically to refuse employment to Blacks or Maghrebis: 8/

> "The fear of being unable to control such persons", which takes the form of statements such as "I already have one Black on the job - I don't want two of them because then they become uncontrollable";
>
> "Refusal by the other employees of a business to accept foreign persons or persons of colour";
>
> "Hiring immigrants would harm the company's corporate image"; and
>
> "It's impossible to put the public or customers in contact with persons of colour".

23. Such practices appear to be supported at the highest level, judging by a statement made by Mr. Michel Bon, Director of the National Employment Agency (ANPE), to justify the refusal to employ black check-out clerks in supermarkets:

> "Unfortunately, there are people with whom it's hard to feel on an equal footing ... and the darker the skin colour, the less equal we feel. 9/

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5/ Ibid., p. 17.

6/ Cited in "La France ne parvient pas à endiguer les discriminations raciales" (Le Monde, 18 January 1995), p. 10.

7/ Ibid.

8/ See Maryse Tripier, Véronique de Rudder et François Vourc'h, "Les syndicats face aux nouvelles discriminations", in Hommes et migrations, No. 1187 (May 1995), p. 19.

9/ Ibid.

24. Thus, it is clear that, although discrimination in hiring is illegal and punishable by law, it has acquired a certain legitimacy in a pernicious social context.

25. Discrimination in access to housing has also been found to exist and may be illustrated by the following table.

Table 2

Categories of foreigners or persons of foreign origin considered by the population resident in France to be most affected by discrimination in housing

(by percentage)

| Categories discriminated against | Men | Women | Total |
|---|---|---|---|
| Total of Arabs, Maghrebis and North Africans | 72.6 | 78.1 | 75.4 |
| Algerians | 6.2 | 11.5 | 8.9 |
| Moroccans | 0.7 | 1.8 | 1.2 |
| Total of Black Africans and persons of colour | 18 | 14 | 16 |
| Total of Arabs and Black Africans | 90.6 | 92.3 | 91.5 |
| Total of other nationalities or geographical areas | 1.8 | 2.1 | 2.0 |
| Total of replies by skin colour: Non-whites, Blacks, persons of colour | 6.4 | 6.4 | 6.4 |
| Total of replies of a religious nature | 1.2 | 0.4 | 0.8 |
| Total of replies with pejorative connotations | 0.2 | 0.0 | 0.1 |
| Weighted total<br>Non-weighted total | 9 255 662<br>563 | 9 381 215<br>591 | 18 636 877<br>1 154 |

Source: National Institute for Demographic Studies (INED). MGIS survey carried out in cooperation with the National Institute for Statistics and Economic Studies (INSEE), 1992.

26. There is a host of testimony by Maghrebis and Black Africans who have been accepted on the telephone on the basis of a European-sounding name and have subsequently learned that "their appearance had betrayed them" and that the apartment they had wanted so much had just been rented. In some communes,

the "ethnic obsession" of low-income housing offices has led to immigrant families being required to submit unobtainable documents, for example, a decree of naturalization for foreigners born outside metropolitan France and its overseas departments and territories.

27. Difficulty in access to both employment and housing for Maghrebis and Black Africans is the main cause of these groups' exclusion.

B. Manifestations of racism and anti-Semitism

28. The 1994 report of the French National Consultative Commission on Human Rights contains reliable information on both of these matters, which the Special Rapporteur has decided to reproduce in extenso. The members of the Commission may refer to annex II of this report.

29. On the basis of a survey conducted in November 1994, the National Consultative Commission on Human Rights finds that the great majority of the persons questioned (89 per cent) consider that racism is "rather widespread or very widespread" in France. Testimony received confirms this trend, since 68 per cent of those questioned said that they themselves had heard racist remarks and 55 per cent that they had witnessed racist behaviour; 25 per cent said that they themselves had been the victims of racist remarks and 18 per cent that they had been the victims of racist behaviour. 10/ The primary victims of racism are Maghrebis, particularly the young French persons of Magrebi origin known as Beurs, followed by Black African. 11/

30. These findings are even more serious in view of the increasingly ordinary nature of racist behaviour and remarks; two thirds of the French population (62 per cent) admits to having had racist attitudes. 12/

31. In the workplace, racist remarks, an environment characterized by jokes in dubious taste and the use of stereotypes by employers, management and colleagues are increasingly frequent. 13/ "Bar room racism", which is not in itself thought to represent any real risk of discrimination or exclusion because it uses the medium of jokes as a way of spreading stereotypes, is widely tolerated and treated with indulgence.

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10/ See the Commission nationale consultative des droits de l'homme (National Consultative Commission on Human Rights), 1994: La lutte contre le racisme et la xénophobie (Paris, La documentation française, 1995), p. 51.

11/ Ibid.

12/ Ibid.

13/ Tripier, de Rudder and Vourc'h, op. cit., p. 20.

## C. Problems with regard to immigration

32. Immigration to France has been suspended since 1974 and each succeeding Government has opted for a policy composed of two main parts: control of migratory flows and limitation of so-called clandestine immigration, on the one hand, and integration of legal immigrants, on the other.

33. In 1985, France, together with Belgium, Germany, Luxembourg, the Netherlands and Spain, signed the Schengen Agreement with a view to tighter control over European borders. A number of legislative and statutory measures, particularly the Pasqua Acts 14/ were taken in order to set up a system for closing off national borders (rejection of applications for visits, a restrictive visa policy, restriction of the right to family reunion, the requirement of accommodation certificates for persons wishing to visit relatives residing in France, and implementation of expulsion measures, particularly by charter flights). Holding centres, including the former centre at the ill-reputed Palais de Justice (Law Courts) in Paris, have been built in airports and seaports and in certain cities (Nanterre, Vincennes) in order to detain "clandestine" immigrants and refugees until they can be expelled. The establishment of an identity check within the country, aimed particularly at foreigners (Act No. 93-992 of 10 August 1993 on identity checking and verification) and the reform of the Nationality Code (Act No. 93-933 of 22 July 1993 providing for changes in the right to nationality) are other aspects of the increasing rigidity of French policy towards foreigners. The clearly stated goal is "zero immigration".

34. Those who spoke with the Special Rapporteur acknowledged that the Pasqua Acts are difficult to apply and raise delicate problems of interpretation. In this connection, the National Consultative Commission on Human Rights emphasizes the "vicious circle" in which foreigners who are supposedly "protected" against expulsion measures find themselves. If they are married to a French person or political refugee or are the parent of a French child, they cannot be expelled. However, if they find themselves in the slightest difficulty with the law, there is no way for them to extricate themselves. They are refused any opportunity to resolve the situation. If they return to their country of origin in order to request a visa, as the administration advises them to do, they may not be permitted to rejoin their families. The Commission therefore proposes that their situation should be regularized.

35. The amendment of the Nationality Code is in contradiction with the Government's integration policy because it eliminates the automatic right to French nationality of children of foreigners who are born in France. Such children must now state their wish to become French between the ages of 16 and 21 and their parents no longer have the right to request this nationality while they are minors. Anyone convicted of a crime or an offence and sentenced to six months or more in prison between the ages of 16 and 21 is deprived of this right. French nationality may also be refused if a sentence of expulsion or escort to the border has been handed down.

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14/ See Ordinance No. 45-2658 of 2 November 1945 on conditions for the entry into and stay in France by foreigners, as amended by Acts No. 93-1417 of 30 December 1993 and No. 93-1027 of 24 August 1993.

36. Some feel that these measures make the legal situation of young foreigners, particularly young first-generation or second-generation Algerians, a precarious one.

## II. MEASURES TAKEN BY THE GOVERNMENT AND LOCAL AUTHORITIES

37. Many legal measures have been taken to combat the various manifestations of racism and anti-Semitism. These measures are described in detail in annex III to this report.

38. The Ministry of the Interior has set up departmental units for action to combat racism, xenophobia and anti-Semitism, which are composed of representatives of the ministries directly concerned by these problems (Interior, Justice, Urban Affairs, Housing, Labour, Social Affairs and National Education), representatives of local authorities, the bar and associations. The purpose of these units is to:

Monitor racist phenomena;

Gather information on the implementation of laws and regulations to prevent and punish racist activities;

Promote local initiatives for the prevention of racism and evaluate action carried out for that purpose;

Encourage communication and cooperation between the administrations concerned, local associations and national units for the coordination of action to combat racism.

39. In the field of human rights education, the Ministry of National Education has developed a civic education curriculum for secondary school students, focused on the "training of individuals and citizens". This curriculum has three main goals:

Education in human rights and citizenship through mastery of the principles and values that form the basis of, and organize, democracy and the Republic, through knowledge of institutions and laws and understanding of the rules of social and political life;

Education in the meaning of individual and collective responsibilities;

Education in judgement, particularly through the adoption of a critical approach and practice in argumentation.

40. Within the framework of urban policy, municipalities and prefectures have taken steps to bring French people and foreigners together and to help foreigners integrate into French society. One such initiative is the "Marseille hope" ("Marseille espérance") project in Marseille, which involves ongoing dialogue between Armenians, Buddhists, Catholics, Jews, Muslims, Eastern Orthodox and Protestants working together to prevent the rise in racism and intolerance. In Lyon, under the leadership of the Prefect, many activities involving contact and dialogue have been undertaken with the immigrant populations concentrated in the eastern part of the city. Various

projects aimed at integration are being carried out, involving housing renovation, school construction, the improvement of health systems, the establishment of recreation centres, etc., in close cooperation with the Social Action Fund (FAS) and the Regional Commission for the Integration of Immigrant Populations (CRIPI). A deputy prefect in charge of urban policy has been appointed to coordinate these activities. In Toulon, the Departmental Unit for Action to Combat Racism and Xenophobia and Anti-Semitism has published a leaflet entitled "White-Black: A Challenge to Be Met" in order to increase young people's awareness of racism.

## III. ACTION TAKEN BY CIVIL SOCIETY

41. Various associations are attempting to reverse the trend towards manifestations of racism and xenophobia. For example, the Droit et démocratie (Law and Democracy) association organized a very important symposium on the discriminatory aspects of the Pasqua Acts in July 1993. In cooperation with university officials, leaders of associations, journalists, researchers and political experts, the Union of African Workers in France (Union des travailleurs africains en France) sponsored an in-depth discussion on "the new faces of racism and xenophobia" in Europe (a topic which was the subject of a seminar held in August 1994) and carried out a public awareness campaign. The France Libertés: Fondation Danielle Mitterrand association has also become involved in action to combat racism, particularly by publishing a "European passport against racism", which invites the bearer to help combat racism and recalls the main provisions of the laws against racism. This passport has been used by the Council of Europe in its "All Different, All Equal" campaign. Also worthy of mention is the support provided to victims of racism by the International Association of Democratic Lawyers and the International League against Racism and Anti-Semitism. These associations have been discussing ways of changing the law.

42. However, it should be noted that, generally speaking, there is a demobilization of civil society with regard to action to combat racism and racial discrimination. In a survey, the National Consultative Commission on Human Rights has shown that there is a "low level of personal commitment". It notes that "only 27 per cent of the French are prepared to take part in a demonstration and only 24 per cent are willing to join an anti-racist association". 15/

43. People seem to be getting used to the atmosphere of xenophobia and they have their eyes turned towards Europe; they want to live with their own kind. As a political figure told the Special Rapporteur, "As a French-speaking African, you surely don't believe that speaking the same language makes us brothers!". And what was the point of mentioning the black skin colour of Cardinal Gantin, Dean of the College of Cardinals, in the press's reporting of the Holy See's decision concerning Monsignor Gaillot?

44. This demobilization is taking place in trade unions as well, if not more so. Once at the forefront of the fight against racial discrimination in

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15/ Commission nationale consultative des droits de l'homme, op. cit., p. 52.

employment, they have become more timid in their support of immigrant workers because of competition between such workers and French nationals. "Trade unionists in companies are themselves going along with the general tendency to downplay racism. Those who are aware of what is happening and want to do something about it admit that they are afraid that the staff as a whole may not always follow their lead". 16/ The major unions such as CGT, CFDT and Force ouvrière are on record as opposing racism and racial discrimination in hiring, but this does not mean that they have the full support of their members.

## IV. CONCLUSIONS AND RECOMMENDATIONS

45. To summarize, the Special Rapporteur notes that France is being swept by a wave of xenophobia and racism that is extremely damaging to its image as "the country of human rights". The peremptorily enacted laws on immigration, the right of asylum and the forced repatriation of "illegal" entrants constitute nothing less than an act of self-repudiation which calls to mind the words of Suetonius: "et propter vitam vivendi perdere causas" ("and in order to live their own life, they lose their true reasons for existence"). With the consequences of colonization and the question of Islam, the second religion in France, the country is confronted with a true crisis of society and civilization.

46. The Special Rapporteur therefore considers that it would be very helpful if the recommendations of the National Consultative Commission on Human Rights on the review of the Pasqua Acts were to be taken into account by the competent legislative and executive authorities. Some people consider that the National Consultative Commission should build on the celebrity it has acquired and go further, in the faithful discharge of its mission, by prevailing on those in power to take urgent measures to rectify and improve the battery of laws on immigration.

47. The Special Rapporteur would also like to recall the specific recommendations that he made in paragraph 45 of his general report (E/CN.4/1996/72):

(i) To revise the Pasqua Acts to make them more humane and more in keeping with the French ideal of human rights and with international conventions on the rights of the individual;

(ii) To be more generous in granting entry visas for people from the South, in particular for asylum-seekers and for people wishing to have medical treatment in France and who are able to afford it;

(iii) To expedite the procedure for examining the files of persons detained in holding centres and to bring about an improvement in living conditions there since even an ordinary prisoner has a right to human dignity; to make the conditions of expulsion less degrading for "illegal" entrants;

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16/ Tripier, de Rudder and Vourc'h, op. cit., p. 21.

(iv) To study the feasibility of devising and disseminating a syllabus for the teaching of human rights on the basis of the agreed common ground of international declarations and conventions on the rights of the individual;

(v) Lastly, to provide technical assistance and financial support for the holding of an international seminar on racism and xenophobia with the partnership of the National Consultative Commission on Human Rights and the cooperation of the United Nations Centre for Human Rights.

48. The Special Rapporteur welcomes the fact that his recommendations have been heeded and that the idea of an international seminar for experts on the topic was raised again in early 1996 by Mr. Paul Bouchet, President of the French National Consultative Commission on Human Rights. This scientific meeting could be organized in France in cooperation with the Centre for Human Rights.

Annex I

PROGRAMME OF THE SPECIAL RAPPORTEUR'S MISSION TO FRANCE

Friday, 29 September (Strasbourg)

10.30 a.m. Meeting with Mr. Edmond Stenger, Government Procurator

11.30 a.m. Meeting with Mr. René Gutman, Chief Rabbi of Strasbourg

2 p.m. Meeting with the officers of the European Commission against Racism and Intolerance (ECRI):

Mr. Franck Orton (President)
Mr. Andrzej Sicinski, Mr. Rona Aybay, Mr. Joseph Voyame (members)

4 p.m. Meeting with Mr. Jean-Luc Faivre, Director of Public Security, Bas-Rhin Department

Monday, 2 October (Paris)

9 a.m. Meeting with Mr. Jean Bellanger, in charge of the Immigration Service, General Workers' Confederation (CGT)

11 a.m. Meeting at the Ministry of Justice with:

Mr. Olivier de Baynast, Chief, European and International Affairs Section

Mrs. Nadine Berthelemy, Human Rights Office

Mr. Philippe Cavalerie, Office of International Criminal Law and International Mutual Aid for Law Enforcement

Mr. Frédéric Desportes, Mr. Rémy Heitz, Mrs. Marie-Anne Chapelle, judges, Department of Criminal Cases and Pardons

2.30 p.m. Mr. Rousseau, Director, Legal Department, National Employment Agency (ANPE)

4 p.m. Meeting with Mr. Pierre Garrigue, Inspector-General of National Education

6 p.m. Meeting with Mr. Didier Bariani, Deputy Mayor of Paris for problem neighbourhoods and Vice-President of the National Assembly

Tuesday, 3 October (Paris)

9 a.m. Meeting with Mr. Pierre Bercis, President, New Human Rights

10 a.m. Meeting at the Ministry of the Interior with:

Mr. Faugère, Director, Public Freedoms and Legal Affairs

Mr. Guéant, Director-General, National Police

Mr. Deruere, Racism and Human Rights Officer

3 p.m. Meeting with Mr. Moreau, Director, Population and Migration, Ministry of Integration

5.30 p.m. Meeting with Mr. Najib Elarouni, Adviser to the Minister of Integration on action to combat exclusion

Wednesday, 4 October (Paris)

10 a.m. Meeting with Mr. Francis Lott, Director, OFPRA

11.45 a.m. Meeting with Mr. Jacques Pelletier, Ombudsman of the Republic

2.30 p.m. Meeting with Mr. Jean-Louis Bodin, Chief, Department of International Relations and Cooperation, National Institute for Statistics and Economic Studies

4 p.m. Meeting at the French Democratic Labour Confederation (CFDT) with:

Mr. F. Sroczynki, Secretary for Immigration

Mr. Lanquetin, Representative to the National Commission on Human Rights

Mr. Caron, National Secretary

Mr. Larignon, Secretary for External Relations

5.30 p.m. Meeting with representatives of non-governmental organizations:

Mrs. Monique Chemillier-Gendreau, International Association of Democratic Lawyers

Mr. Marc de Montalembert, Mrs. Catherine Murcier, Amnesty International

Mr. Louis Bretton, CIMADE

Mrs. Hélène Jaffe, Association for the Victims of Repression in Exile (AVRE)

6.40 p.m. Meeting with Mr. Bruno Quemada, Assistant, Force Ouvrière (FO) trade union

Thursday, 5 October (Paris and Lyon)

11.30 a.m. Meeting with the National Consultative Commission on Human Rights (CNDH)

1 p.m. Working lunch with Mr. Paul Bouchet, President, and Mr. Gérard Fellous, Secretary-General, CNDH; and Mr. Régis de Gouttes, member, Committee on the Elimination of Racial Discrimination

3 p.m. Leave for Lyon

5.15 p.m. Meeting with Mr. Paul Bernard, Regional Prefect

5.30 p.m. Meeting with:

Mr. Denis Robin, Deputy Prefect, Director

Mr. Claude Lanvers, Deputy Prefect for Urban Policy

Mrs. Françoise Bernillon, Regional Director, Social Action Fund

Mr. Michel Prost, Officer for Integration Problems

7.15 p.m. Leave for Marseille

Friday, 6 October (Marseille and Toulon)

9.15 a.m. Meeting at the Prefecture with:

Mr. Jean Ballandras, Deputy Secretary-General, Prefecture of the Bouches-du-Rhône Department

Mr. Fernand Lièvre, Superintendent of Police, Regional Information Department, Pas-de-Calais region

Mr. Bernard Mottier, Lieutenant Colonel and Commander, Bouches-du-Rhône Departmental Gendarmerie Group

Mr. Jean Dal Colletto, Police Commander, Departmental Office for Public Security

Mr. Daniel Grandordy, Interregional Office for Immigration Control and Action to Combat the Employment of Illegal Immigrants (DIRCILEC)

Mr. Jacques Lavel, Advocate-General, Court of Appeals of Aix-en-Provence

12 p.m. Meeting with Prof. Jean-François Mattei, assistant to the Mayor of Marseille for community relations

2 p.m. Leave for Toulon

4 p.m. Meeting with Mrs. Lang, representative of the International League against Racism and Anti-Semitism (LICRA)

5.15 p.m. Meeting with Mr. Jean-Pierre Richer, Prefect

Monday, 9 October (Paris)

9 a.m. Meeting with representatives of non-governmental organizations:

Mr. Marc Agy, Director-General, L'Arche de la fraternité

Mrs. J. Rouer Villeneuve, lawyer and member, LICRA

Mrs. Annie Canizares, Justice and Peace

Mrs. Anne Castagnos, European affairs officer, France Terre d'Asile

Mr. Thomas Omores, Union of African Workers in France, and Secretary-General, Migrants' Forum of the European Union

Mr. Jacques Ribs, Droit et Démocratie

Mr. Vercoutère, France-Libertés - Fondation Danielle Mitterrand

1 p.m. Working lunch at the Ministry of Foreign Affairs

Annex II

SITUATION WITH REGARD TO MANIFESTATIONS OF RACISM AND ANTI-SEMITISM

(excerpted from the National Consultative Commission on Human Rights 1994: La lutte contre le racisme et la xénophie, Paris, La documentation française, March 1995)

KNOWN RACIST INCIDENTS

Every year since 1980, the Ministry of the Interior and Land Use Management has compiled a summary of manifestations of racism and anti-Semitism in France, along with an analysis of their growth.

These statistics make two types of distinction:

Manifestations of anti-Semitism, when they are clearly intended as such - in other words, when French Jews are mentioned in claims of responsibility or are the motive for or target of such incidents - are covered by statistics that differ from those on racism in general, including anti-Maghrebi racism.

In manifestations of racism and anti-Semitism, the statistics distinguish between "acts", i.e. violence against property and persons (attacks, injuries, deaths), and "threats" (graffiti, leaflets, tracts, letters, phone calls and the like).

The same criteria have been used in these statistics for more than 10 years. It should be noted that they differ from those used by the Ministry of Justice, which compiles a summary of judicial measures taken to combat racism and xenophobia.

For several years, the National Consultative Commission on Human Rights has been requesting that these criteria should be harmonized.

Concerning the summary of manifestations of racism and anti-Semitism, the Ministry of the Interior makes the prefatory statement that any analysis dealing with the growth of racist and anti-Semitic violence comes up against problems of counting, despite careful checking. Several criteria are taken into account, including the target, claims of responsibility, 1/ and arrests.

As there are no specific indications of the approach taken during investigations, motivation is often difficult to determine. Anti-immigrant acts are not systematically racist.

Similarly, racist violence in continental France and acts of violence against immigrants in Corsica are not based on exactly the same principles.

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1/ Although this type of violence is seldom claimed, except by telephone calls made on the occasion.

For all these reasons, lists of numbers designed to quantify racist violence are only of relative value and are useful particularly for making comparisons between years.

1994 statistics

| Racism | | including anti-Maghrebi | anti-Semitism | Total |
|---|---|---|---|---|
| Acts | 34 | 21 | 19 | 53 |
| Threats | 166 | 106 | 143 | 309 |

Note on 1993-1994 statistics

The 1994 statistics are the result of new collection criteria chosen by the Ministry of the Interior to obtain a more accurate picture of racist and anti-Semitic behaviour.

These criteria are as follows:

For "acts", the result of judicial investigations which, as they were conducted since the previous report was drafted, made it possible to determine an origin and a motivation that are different from what was originally suspected;

For "threats", grouping together manifestations which have the same origin and which occurred in the same circumstances of time and place (for example, distribution of the same leaflet).

The 1993 statistics referred to in this report have been amended on the basis of the same criteria to make it easier to compare the two years.

Racist and anti-Semitic violence

While racist violence has stayed at more or less the same level, there has been a definite drop in anti-Semitism compared to previous years, particularly 1990 and 1991, which were marked by events such as the 1990 desecration of the Carpentras cemetery and the 1991 Gulf war which led to an increase in incidents. As these events were of particular concern to the population, a number of "minor" incidents were reported, which might not have been reported as systematically at another time.

1989: 72 incidents 2/
1990: 72 incidents
1991: 91 incidents
1992: 57 incidents
1993: 55 incidents
1994: 53 incidents.

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2/ Incidents reported in France.

Bombings are rare, 3/ but physical attacks are more common.

Desecrations and especially manifestations such as threats, insults or intimidation are, however, high in number. Large numbers of leaflets and other pieces of writing are also produced by revisionists.

In contrast, anti-Zionist acts perpetrated by the extreme left (the former Action directe) and especially by persons from the Middle East, are much more serious, as shown by the attacks carried out in 1980 and 1982. The consequences of recent acts attributable to Arab-Islamic groups have proved to be milder.

Racism in general and anti-Maghrebi racism in France (excluding anti-Semitism)

Aspects of the violence

Unlike anti-Semitism, racist acts are often more serious for the victims, who are private individuals.

Between 1980 and 1994, 26 persons were killed and 351 were injured.

The Maghrebi population is consistently one of the most popular targets for such violence, although the proportion of acts directed against it continues to drop by comparison with racist violence as a whole: 62 per cent in 1994, as opposed to 71 per cent four years ago.

| 1980-1984 | Anti-Maghrebi racism | Other forms of racism |
|---|---|---|
| Violent acts | 553 | 161 |
| Deaths | 24 | 2 |
| Injuries | 270 | 81 |

Since 1987, a not-insignificant proportion of this violence has been committed by skinheads.

This type of threat, which also tends to be directed against North Africans in particular, often takes the form of leaflets, most of them incendiary.

The first pamphlet of this kind, known as the "fake leaflet" by the Amicale des Algériens in Europe (ADAE), dates back to 1966. It still appears in France from time to time. Its success has led to other initiatives along the same lines: "Mon cher Mustapha", which came out in 1982; "JALB", in December 1987; and "Francarabia", in January 1989.

Since 1992, three new leaflets have been widely distributed: "Le Boukcaque", "La demande de naturalisation" and "Le permis à points".

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3/ It should, however, be recalled that a Jewish woman was murdered by a neo-Nazi in Le Cannet (06) on 3 August 1984.

Once they have been written, these leaflets, which frequently end with the instruction that they should be "reproduced and widely disseminated", are photocopied and redistributed according to the "chain letter" principle. This makes it especially difficult to identify either the original authors or any subsequent distributors.

Most of these publications circulate discreetly, if not clandestinely. Their dissemination often reflects the vicissitudes of current events; they come out quickly when major events occur that are widely covered in the media.

Developments since 1980

Radical racism, which was relatively moderate until 1982, later began to increase steadily, along with a revival of xenophobia and the emergence of an extreme right movement, whose views on immigration were favourably received in certain quarters by people with financial problems who were sensitive about the issues of insecurity and unemployment. Between 1981 and 1982, the number of racist incidents almost doubled, from 23 to 43.

The rise continued, peaking in 1983 (68), 1985 (70) and 1988 (64). At the same time, the incidents became increasingly serious and deaths and physical attacks occurred.

For example:

On 16 November 1983, on the train between Bordeaux and Ventimiglia, three Foreign Legion recruits threw an Algerian out the window;

On 20 August 1984, in Haubourdin (59), a young North African was killed by a supporter of the National Front;

On 11 November 1984, in Chateaubriant (44), a bar frequented by Turks was machine-gunned (two persons killed, five injured). The perpetrator, Frédéric Boulay, was jailed and escaped twice from Lannemezan (65); he was caught in Spain and is reportedly being detained there;

In May and June 1986, in Toulon, Marseille and Nice, the "Commandos of France against the Maghrebi invasion" claimed responsibility for seven bomb attacks. The four persons responsible - one of whom was Claude Noblia, the leader of the organization SOS France - were killed on 18 August 1986, when their car blew up in Toulon because their own explosive device went off;

On 6 March, 5 June and 30 November 1987, in Petit-Quevilly (76) and Caen (14), three attacks took place on North African bars (one person killed, five injured) and "Irgoun Drei" claimed responsibility. The perpetrators, Christophe Arcini and Michel Lajoye, were imprisoned. Lajoye, who is detained in Ensisheim (68), is a very active letter-writer and corresponds with many militant extremists;

On 19 December 1988, in Cagnes-sur-Mer (06), a bomb was thrown into the Sonacotra hostel (1 dead, 12 injured). The "Massada" group claimed responsibility. The perpetrators, who are members of the French and European

Nationalist Party (the neo-Nazi PNFE) and who had carried out several other racist and political attacks since 1985, were arrested in January 1989 and sentenced in October 1991 by the Appeals Court in Nice;

On 28 January 1989, in Montataire (60), a Frenchman of Algerian origin was killed following an altercation in a bar (the perpetrators were tried and imprisoned);

On 8 May 1989, in Nice (06), there was an attempt on the life of a young Tunisian, who was critically wounded in the head by two bullets fired at point blank range; the accused was acquitted.

From 1989 to 1991, the trend was reversed, with the volume of incidents and especially their seriousness declining considerably.

In 1992, there was a sharp drop:

| Year | Racist incidents | Deaths | Injuries |
|---|---|---|---|
| 1988 | 64 | 3 | 51 |
| 1989 | 54 | 1 | 31 |
| 1990 | 52 | 1 | 35 |
| 1991 | 51 | - | 14 |
| 1992 | 32 | - | 17 |
| 1993 | 38 | - | 32 |
| 1994 | 34 | 1 | 27 |

The remarkable decline in 1992 might be attributed to:

The fact that activist movements (French Nationalist Party, Third Path) are so disorganized;

The temporary weakening of the skinhead movement, leading to a drop in the number of acts attributed to it:

55 in 1989, including 17 racist acts

47 in 1990, including 17 racist acts

28 in 1991, including 9 racist acts

28 in 1992, including 10 racist acts

34 in 1993, including 17 racist acts

19 in 1994, including 12 racist acts

The many arrests of skinheads - 558 - since 1989;

The "wait-and-see" policy of "hard-core" elements, which appears to have put a stop to any acts they might have committed in anticipation of elections, in which they were counting on the rise of the extreme right.

More incidents were reported in 1993 than 1992 and they were more serious: 32 incidents and 17 persons injured in 1992, 38 incidents and 32 persons injured in 1993.

This relative upsurge can be explained by the renewed dynamism of activist movements (PNFE) and the skinheads and by mimicry of the growth of xenophobic and racist violence in Germany.

The skinheads were responsible for 34 incidents in 1993, including 17 racist acts, which account for half all such acts of violence.

The two most striking racist acts of 1993 were the following attacks:

Against three North Africans, by seven soldiers, including two skinheads, on 5 June, in Bordeaux (33);

One of the victims was very seriously injured;

Against two North Africans, who were badly beaten and burned on their hands and faces by a group of skinheads who doused them with gasoline, on the night of 26-27 September 1993, in Paris.

While the number of incidents in 1994 remained stable, at 34, the seriousness increased that year: 1 person killed and 27 injured in 1994, as opposed to 33 injured in 1993.

On 6 August 1994, in Ault (80), a young man 4/ from a Harki family was verbally abused by a group of young people who were drunk as he left an annual dance. There were racist insults and a fight broke out. The next day, his body was found at the foot of a cliff. Seven persons were imprisoned, three of them charged with wilful murder.

Other violent acts also received attention in 1994:

On 16 April, in Clermont (60), three young people who were drunk violently attacked a Guadeloupian, who was critically injured (45 days of sick leave): two of the perpetrators were jailed and the third was placed under court supervision for failure to assist a person in danger;

On 30 April, in Saint-Ouen-L'Aumone (95), two drunken persons, armed with baseball bats and knuckle-dusters, broke into the Sonacotra hostel and violently attacked two residents of African origin in the prayer room. The perpetrators, members of the Nationalist Union Group (GUN), a splinter group of the National Youth Front, were jailed;

On 17 July, in Dreux (28), five youths organized a "punitive expedition" in a largely Maghrebi neighbourhood. They wounded seven persons, two of them critically, with firearms. During the course of their arrest, one of the attackers was wounded by the police and subsequently died;

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4/ He already had a police record for drug-related offences.

On 7 August, in Lille (59), five skinheads with ties to the Third Path and the PNFE were arrested just after attacking a Frenchman of Maghrebi origin and a Cameroonian national;

During the night of 29-30 October, in Klingenthal (67), a group of about 30 skinheads, all of them very young, attacked a vehicle occupied by two Turks, pushing and shoving them and slightly injuring one of them. Part of this group then went on to Obernai (67), where they attacked a Turkish restaurant, broke the window, damaged the premises and sprayed the clients with tear gas, wounding three more persons. Four perpetrators were sentenced, two of them to one year of prison with eight months' suspended sentence and the other two to 10 months. Two years of probation and three years' deprivation of their civil rights completed the penalty.

Mosques have also been the targets of many attacks: a Molotov cocktail was thrown at the one in Creil (60) and there were fires in Nantes (44), Castelnaudary (11), Metz (57), Rennes (35), Courcouronnes (91) and Orange (84).

Some of this violence was a reaction to the situation in Algeria, including the murder of Frenchmen in that country.

Threats

The volume of racist threats has followed the same pattern as racist acts, increasing until 1991, dropping in 1992, levelling off in 1993 and then rising slightly in 1994:

| | |
|---|---|
| 1980: | 20 |
| 1990: | 283 |
| 1991: | 317 |
| 1992: | 141 |
| 1993: | 134 |
| 1994: | 160. |

The pattern is similar for the dissemination of racist leaflets:

| | |
|---|---|
| 1991: | 205 (out of 317) |
| 1992: | 66 (out of 141) |
| 1993: | 51 (out of 134) |
| 1994: | 67 (out of 160). |

After the large number of racist threats reported in 1991, as a result of the contagious effect of the Gulf war, threats declined significantly in 1992 and 1993, particularly against the Maghrebi community.

In 1994, such threats started up again, primarily in the form of racist graffiti and leaflets. The Algerian political context is probably responsible for the reappearance of incendiary leaflets from the past, such as "JALB" and "Francarabia musulmane", which had all but disappeared after January 1992. They were replaced by other publications, such as "Le Boukcaque", "Le permis à points" and "La demande de naturalisation", which fell out of favour in 1994.

In late 1994, a new, basically anti-Muslim pamphlet came out and was addressed to several security firms. It was from the self-styled "republican forces for the liberation of France" and called for "killing, stamping out, burning or blowing up anything that is Algerian, Arab or preaches the Jihad on our soil".

Among those responsible for spontaneous acts of violence are many ultranationalists and skinheads. More rarely, groups of politicized individuals take part, who plan their initiatives carefully and afterwards claim responsibility, always identifying themselves by the same name. This was the case recently of the 1987 attacks, for which Irgoun Drei claimed responsibility, and of the 1988 attacks on the Sonacotra hostels in Alpes-Maritimes, for which Massada claimed responsibility.

Location of acts of racism

The breakdown of racist violence by region, with two major centres in Ile-de-France and Provence-Alpes-Côte d'Azur, is similar to the distribution pattern of anti-Semitism:

Ile-de-France: 32 acts reported since 1991;

Provence-Alpes-Côte d'Azur: 22 acts reported since 1991.

The Lorraine and Rhône-Alpes regions are also affected, but to a lesser extent, with 10 and 11 acts, respectively.

In Ile-de-France, the high population density, and above all the fact that extreme-right, nationalist and neo-Nazi organizations as well as skinhead groups are particularly well-established there, may explain such numbers. Essonne is the most vulnerable department in this respect.

In Provence-Alpes-Côte d'Azur, the departments with the highest incidence are Alpes-Maritimes and Bouches-du-Rhône.

The Rhône-Alpes region is marked by striking disparities: the violence is concentrated almost entirely in Savoie and Rhône, with the other departments only slightly concerned.

Anti-Maghrebi attacks in Corsica

This phenomenon was not really considered separately until early 1994.

Earlier research revealed 18 violent acts in 1992 against the Maghrebi community, primarily of Moroccan origin, with one person injured. In 1993, there were 20 such acts, with four persons injured.

In 1994 as well, 20 violent acts were reported and were, increasingly serious (one person dead and five injured, all Moroccan):

An employee of the Ajaccio Health Department was murdered on 5 February;

A Moroccan was assaulted in Bastia and seriously injured on 9 January;

A Moroccan was assaulted with knives in a Lucciana discotheque on 13 February;

The President of the organization Expression maghrébine au féminin en Corse, was assaulted at Ajaccio airport on 20 July;

Shots were fired at a young high school student, wounding him in the eye on 3 July;

A Moroccan home was bombed, slightly injuring the occupants, on 9 August.

There have been three other anti-Maghrebi attacks in Corsica, one against the Bonifacio mosque and the others against vehicles belonging to Moroccans. The graffiti: "A droga fora" was found near one of the vehicles and responsibility was claimed by the mysterious "National Armed Movement".

Responsibility for shots fired into a Moroccan butcher's shop front in Ghisonaccia was claimed in a phone call to Corse Matin by self-styled "Corsican revolutionary units".

These incidents, to which there is usually not much of a reaction, are becoming more common.

Comparative data in figures

Racism

List of racist acts since 1980

Victims of racism since 1980

Location of acts of racism since 1991, by region

Location since 1991, by department.

List of racist acts since 1980*

| Year | Acts | | | Threats | | |
|---|---|---|---|---|---|---|
| | Anti-Maghrebi | Others | Total | Anti-Maghrebi | Others | Total |
| 1980 | 29 | 6 | 35 | 17 | 3 | 20 |
| 1981 | 20 | 3 | 23 | 14 | 9 | 23 |
| 1982 | 34 | 9 | 43 | 32 | 23 | 55 |
| 1983 | 65 | 3 | 68 | 81 | 15 | 96 |
| 1984 | 45 | 8 | 53 | 85 | 17 | 102 |
| 1985 | 50 | 20 | 70 | 91 | 7 | 98 |
| 1986 | 40 | 14 | 54 | 93 | 2 | 95 |
| 1987 | 39 | 7 | 46 | 68 | 12 | 80 |
| 1988 | 51 | 13 | 64 | 108 | 27 | 135 |
| 1989 | 44 | 10 | 54 | 188 | 49 | 237 |
| 1990 | 37 | 15 | 52 | 202 | 81 | 283 |
| 1991 | 34 | 17 | 51 | 251 | 66 | 317 |
| 1992 | 21 | 11 | 32 | 80 | 61 | 141 |
| 1993 | 24 | 13 | 37 | 82 | 52 | 134 |
| 1994 | 21 | 13 | 34 | 106 | 60 | 166 |
| Total | 554 | 162 | 716 | 1 498 | 484 | 1 982 |

* Except Corsica.

Victims of racism since 1980*

| Year | Anti-Maghrebi racism | | Other racism | | Total | |
|---|---|---|---|---|---|---|
| | Injuries | Deaths | Injuries | Deaths | Injuries | Deaths |
| 1980 | 9 | 0 | 1 | 0 | 10 | 0 |
| 1981 | 1 | 0 | 1 | 0 | 2 | 0 |
| 1982 | 10 | 0 | 1 | 0 | 11 | 0 |
| 1983 | 33 | 5 | 0 | 0 | 33 | 5 |
| 1984 | 11 | 2 | 5 | 2 | 16 | 4 |
| 1985 | 23 | 5 | 6 | 0 | 29 | 5 |
| 1986 | 10 | 3 | 1 | 0 | 11 | 3 |
| 1987 | 29 | 3 | 2 | 0 | 31 | 3 |
| 1988 | 39 | 3 | 12 | 0 | 51 | 3 |
| 1989 | 22 | 1 | 9 | 0 | 31 | 1 |
| 1990 | 29 | 1 | 6 | 0 | 35 | 1 |
| 1991 | 7 | 0 | 7 | 0 | 14 | 0 |
| 1992 | 11 | 0 | 6 | 0 | 17 | 0 |
| 1993 | 21 | 0 | 12 | 0 | 33 | 0 |
| 1994 | 15 | 1 | 12 | 0 | 27 | 1 |
| Total | 270 | 24 | 81 | 2 | 351 | 26 |

* Except Corsica.

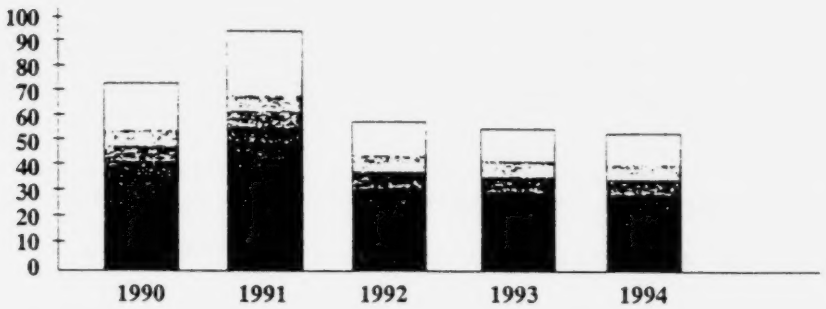
Location of acts of racism since 1991, by region*

| Region | 1991 | | 1992 | | 1993 | | 1994 | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|
| | A | T | A | T | A | T | A | T | A | T |
| Alsace | 1 | 15 | 0 | 6 | 5 | 7 | 3 | 3 | 9 | 31 |
| Aquitaine | 1 | 6 | 3 | 1 | 3 | 6 | 0 | 2 | 7 | 15 |
| Auvergne | 1 | 1 | 0 | 1 | 0 | 4 | 1 | 2 | 2 | 8 |
| Bourgogne | 0 | 14 | 1 | 2 | 1 | 2 | 0 | 5 | 2 | 23 |
| Bretagne | 0 | 8 | 1 | 3 | 0 | 5 | 2 | 4 | 3 | 20 |
| Champagne-Ardennes | 2 | 9 | 0 | 14 | 0 | 1 | 2 | 6 | 4 | 30 |
| Centre | 2 | 9 | 0 | 2 | 2 | 9 | 4 | 9 | 8 | 29 |
| Franche Comté | 2 | 32 | 0 | 1 | 2 | 1 | 0 | 3 | 4 | 37 |
| Languedoc-Roussillon | 2 | 14 | 1 | 0 | 0 | 12 | 1 | 6 | 4 | 32 |
| Limousin | 0 | 4 | 2 | 3 | 2 | 1 | 0 | 1 | 4 | 9 |
| Lorraine | 0 | 21 | 3 | 11 | 5 | 7 | 2 | 10 | 10 | 49 |
| Midi-Pyrénées | 1 | 14 | 0 | 2 | 1 | 5 | 0 | 5 | 2 | 26 |
| Nord | 1 | 9 | 0 | 8 | 2 | 5 | 2 | 13 | 5 | 35 |
| Basse-Normandie | 0 | 7 | 0 | 6 | 0 | 1 | 0 | 4 | 0 | 18 |
| Haute-Normandie | 2 | 7 | 1 | 10 | 1 | 2 | 5 | 8 | 9 | 27 |
| Pays-de-Loire | 1 | 6 | 0 | 2 | 1 | 3 | 1 | 7 | 3 | 18 |
| Picardie | 4 | 6 | 0 | 1 | 1 | 1 | 3 | 5 | 8 | 13 |
| Poitou-Charentes | 1 | 3 | 0 | 1 | 0 | 6 | 1 | 2 | 2 | 12 |
| Provence-Alpes Côte d'Azur | 14 | 33 | 5 | 5 | 2 | 16 | 1 | 7 | 22 | 61 |
| Rhône-Alpes | 3 | 29 | 2 | 19 | 4 | 12 | 2 | 14 | 11 | 74 |
| Ile-de-France | 13 | 70 | 9 | 42 | 6 | 28 | 4 | 44 | 32 | 184 |
| Total | 51 | 317 | 28 | 140 | 38 | 134 | 34 | 160 | 151 | 751 |

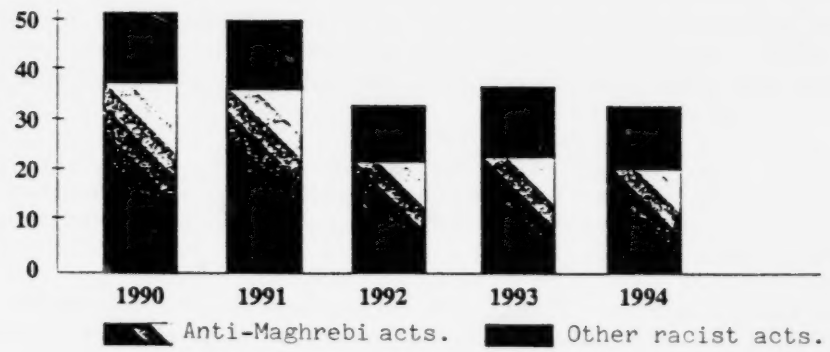
* Except Corsica.

A: Acts
T: Threats

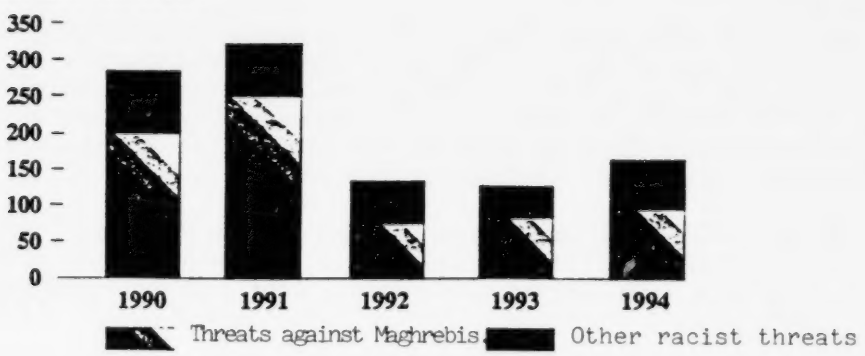
Racist, anti-Semitic and anti-Zionist violence.




Racist violence.




Racist threats.



Anti-semitism

The growth of anti-Semitism since 1980

In the early 1980s, several violent acts forming part of international terrorism were carried out against the Jewish community and Israeli offices in France: the attack on the Rue Copernic synagogue in October 1980, the murder of Yacov Barsimentov in April 1982 and the machine-gunning of the Rue des Rosiers in August 1982.

There were hardly any cases of extreme-left or Middle Eastern terrorism after this wave of anti-Zionist violence and attacks on the Jewish community declined significantly, reaching their lowest level in 1986, when there were two incidents.

Although anti-Semitism declined after 1982, there were some new incidents as a result of certain events that had a major impact in the media:

1987: the Barbie trial: 13 incidents and 133 threats.

1990: the desecration of the Jewish cemetery at Carpentras: 20 incidents and 372 threats.

1991: the repercussions of the Gulf war: upsurge of anti-Semitism, with 40 incidents, including 16 in January alone. This event, a new development in France, revealed the animosity of some Maghrebis towards the Jewish community.

Various acts of aggression against synagogues - 16 in all - were carried out, none of them very serious (stone-throwing), by young North Africans. These malicious acts dropped off spontaneously once the hostilities ended, but did not disappear entirely.

The first eight months of 1992, which were relatively calm, with 6 incidents, were followed by an increase, with 14 incidents for the last four months, in addition to 5 incidents attributable to Arab-Islamic groups. The new increase coincided with the desecration of the Jewish cemetery in Herrlisheim (68): 193 graves were damaged on 28 August.

This shows once again just how sensitive such violence is to contagiousness and imitation. The incidents reported the day after what had happened in Herrlisheim included the pro-Nazi graffiti scribbled on the wall of the Jewish cemetery in Lyon on 13 September and on a dozen or so Jewish graves. Six members of Lyon skinhead and hooligan groups who were arrested in early October later admitted their guilt.

The desecration of the cemeteries in Freyming-Merlebach (57), on 8 September, and Schiltigheim (67), on 30 December, should also be noted. Hostile acts were also carried out against about a dozen synagogues in 1992.

Nevertheless, despite the increase in the last two months of 1992, anti-Semitic violence did not reach the levels of 1991. The drop in the number of threats was even more marked: 184 in 1991 and 109 in 1992. In 1993, anti-Semitic violence continued to abate: 17 incidents were reported, 3 of them attributable to Arab-Islamic groups.

However, acts of intimidation, leaflets and other anti-Semitic graffiti, were on the rise. In 1993, 164 "threats" - 152 anti-Semitic "threats" and 12 leaflets and threats denying the genocide - were reported, as against 109 for the previous year.

This form of violence stabilized in 1994, with 19 incidents as against 17 in 1993.

As usual, Jewish buildings and places of worship were the main targets, including the synagogues in Puteaux (92) and Pantin (93), and a cemetery in Fegersheim (67), in which 58 tombstones were overturned and slabs broken, the Beth Menahem school in Villeurbanne (69), a company in Pantin (93) specializing in Kosher products and a vehicle belonging to a Lubavitch centre in Nice (06), which was set on fire.

Six other incidents targeted members of the Jewish community:

On 2 March, in Epinay-sur-Seine (93), two persons leaving the synagogue were hit by beer bottles thrown by two individuals hiding on a footbridge;

On 15 March, in Marseille (13), a high school student wearing a yarmulke was assaulted on a bus by six Maghrebis;

On 11 April, in Villeurbanne (69), a merchant was bludgeoned by three persons who then fled, dropping behind them neo-Nazi stickers from the United States chapter of NSDAP-AO;

On 5 June, in Paris, a Pole under the influence of alcohol attempted to throw a boy wearing a yarmulke onto the tracks in the Jaurès underground station. When he was arrested, he said he had "wanted to kill a Jew";

On 15 July, in Créteil (94), youths of African origin threw stones at the oratory, during the service;

On 5 August, in Marseille (13), the female manager of a petrol station attacked and gassed two clients (15 days of sick leave), after making anti-Semitic insults.

Eight acts were committed by Arab-Islamic groups, some in retaliation for the massacre of several dozen Palestinians on 25 February 1994 at the Tomb of the Patriarchs in Hebron (Israel). The signing of the Israeli-Palestinian peace accords also led to renewed anti-Semitic manifestations, especially of anti-Zionism.

By contrast, the number of anti-Semitic threats 5/ dipped somewhat (143) compared to 1993 (164).

Certain acts of violence stand out in particular because of the strength of the reaction they aroused within the community:

On 18 May, in Rillieux-la-Pape (69), the plaque commemorating the execution of the seven Jewish hostages shot by the Lyon militia on 29 June 1944 was destroyed. This desecration occurred almost a month after Paul Touvier was sentenced to life imprisonment for his role in that incident. During the night of 6-7 July, the new commemorative plaque was also destroyed;

In October, several deputies from eastern France and Ile-de-France received the revisionist work, "L'holocauste au scanner", by the Swiss Jürgen Graf, distributed from Belgium. This book was banned in France in December 1994;

On 9 November, in Paris, tear-gas was thrown into two cinemas showing the film "Tsahal", about the Israeli army. Responsibility was immediately claimed by the Union Defence Group (GUD), which intended to "express its solidarity with the Palestinian people, the victim of daily atrocities committed by the Zionist occupation army". Several members of this group, who were brought in for hearings the next day, were not recognized by witnesses.

Like leaflets with racist connotations, anti-Semitic pamphlets circulate with a maximum of discretion, left in letter boxes or sent through the post to persons assumed to belong to the Jewish community. Although revisionist tracts are tending to decline gradually as a result of the many proceedings brought against the negationists, a large number of books and brochures were published in 1994.

Arrests

Eleven persons were arrested in 1991 for anti-Semitic or anti-Zionist acts, and nine in 1992. 6/ The latter included the six skinheads identified as the persons who desecrated the Jewish cemetery in Lyon during the night of 12-13 September.

There were no arrests in 1993.

In 1994, eight arrests were recorded, all followed by legal proceedings.

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5/ However, these figures do not always reflect the magnitude of certain occurrences. The distribution of a leaflet received by many persons on the same day is reported as one and the same incident, in the same way as the dissemination of a tract to just one recipient.

6/ The police do not systematically receive reports of legal proceedings.

Location of acts of anti-Semitic violence

A list of places where anti-Semitic violence and threats 7/ occur shows great disparities.

The most affected regions are Ile-de-France, Rhône-Alpes and Provence-Alpes-Côte-d'Azur.

Since 1991, almost 44 per cent of all the incidents reported nationally were concentrated in Ile-de-France (44 of 101).

The proportion (248 of 573) is the same with regard to threats. The inner-city area of Paris was particularly affected, with many pieces of mail, leaflets and letters addressed to the representatives of the Jewish community, as well as to political figures of all persuasions.

The reasons for the relatively high rate of anti-Semitic violence in Ile-de-France are the high overall population density, the large Jewish community and the activities of extreme-right groups and skinheads.

The regions of Rhône-Alpes (20 acts, 45 threats) and Provence-Alpes-Côte d'Azur (11 acts, 57 threats) are quite far behind. Alsace and Lorraine are particularly affected owing to the activities of a small group of neo-Nazi PNFE members. The Midi-Pyrénées region reports a large number of acts of intimidation, which usually do not lead to physical acts.

In the rest of the country, only a few scattered acts have been reported.

Comparative statistical data

Anti-Semitism

List of anti-Semitic acts since 1980, by suspected origin

Victims of anti-Semitism or anti-Zionism since 1980

Location of acts of anti-Semitism since 1991, by region

Location since 1991, by department

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7/ See statistical tables below.

List of anti-Semitic and anti-Zionist acts since 1980*
(by suspected origin)

| Year / Origin | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Extreme right | 75 | 26 | 26 | 21 | 15 | 10 | 2 | 13 | 17 | 18 | 20 | 24 | 20 | 14 | 11 | 312 |
| Extreme left | 0 | 0 | 4 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 5 |
| International terrorism and Arab groups | 1 | 0 | 4 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 16 | 5 | 3 | 8 | 38 |
| Totals | 76 | 26 | 34 | 21 | 16 | 11 | 2 | 13 | 17 | 18 | 20 | 40 | 25 | 17 | 19 | 355 |
| Threats: all origins combined | 190 | 70 | 135 | 70 | 80 | 56 | 57 | 133 | 89 | 153 | 372 | 184 | 109 | 164 | 143 | 2 005 |

* Except Corsica.

Victims of anti-Semitism and anti-zionism since 1980*

| Year | Extreme-right acts | | Extreme-left acts | | Acts linked to international terrorism or Arab groups | | Total | |
|---|---|---|---|---|---|---|---|---|
| | Persons injured | Persons killed | Persons injured | Persons killed | Persons injured | Persons killed | Persons injured | Persons killed |
| 1980 | 5 | | | | 30 | 4 | 35 | 4 |
| 1981 | 1 | | | | | | 1 | 0 |
| 1982 | | | | | 78 | 7 | 78 | 7 |
| 1983 | 1 | | | | | | 1 | 0 |
| 1984 | 1 | 1 | | | | | 1 | 1 |
| 1985 | 18 | | | | | | 18 | 0 |
| 1986 | | | | | | | 0 | 0 |
| 1987 | 2 | | | | | | 2 | 0 |
| 1988 | | | | | | | 0 | 0 |
| 1989 | 1 | | | | | | 1 | 0 |
| 1990 | 3 | | | | | | 3 | 0 |
| 1991 | 1 | | | | 4 | | 5 | 0 |
| 1992 | 6 | | | | 1 | | 7 | 0 |
| 1993 | 3 | | | | 1 | | 4 | 0 |
| 1994 | 3 | | | | 1 | | 4 | 0 |
| Total | 45 | 1 | 0 | 0 | 115 | 11 | 160 | 12 |

* Except Corsica.

## Annex III

## JUDICIAL MEASURES TAKEN TO COMBAT RACISM AND XENOPHOBIA

The main legal development in 1994 was the entry into force of the new Penal Code on 1 March 1994, as a result of Acts No. 92-683, No. 92-684, No. 92-685 and No. 92-686 of 22 July 1992 and No. 92-1336 of 16 December 1992.

The new legislation in force does not apply to press offences, as provided for in the Act of 29 July 1881 on Freedom of the Press, but it does increase the penalties for some racist offences (racial discrimination, aggravated desecration of graves, criminal responsibility of corporate bodies) and creates new offences (non-public racial incitement, non-public racial defamation and insult). In addition, Act No. 93-128 of 6 December 1993 on Security during Sporting Events makes it an offence to display an acronym associated with a racist ideology during a sporting event.

Following these changes, the anti-racist legislation now in force has had to be re-evaluated.

Chapter I contains a full inventory of anti-racist laws, while chapter II describes the judicial measures taken.

### CHAPTER I

### STATUS OF AND PROSPECTS FOR FRENCH LEGISLATION ON RACISM AND XENOPHOBIA IN 1994

### I. STATUTORY AND JUDICIAL PREVENTION OF RACIST OFFENCES

To prevent racist offences from being committed, the authorities have two effective instruments: administrative prohibitions and interim relief proceedings in the civil courts.

#### A. Administrative prohibitions under criminal law

In order to maintain public order, legislative provisions allow the administrative authorities to take the following measures in respect of groups and publications based on racist ideologies.

(a) Dissolution of de facto associations and groups advocating hatred and racial violence

Act No. 72-545 of 1 July 1972 on Action to Combat Racism supplemented article 1 of the Act of 10 January 1936 on Combat Groups and Private Militias by adding a sixth case of dissolution by means of a decree of the President of the Republic adopted in the Council of Ministers.

This measure can apply to de facto associations and groups which incite discrimination, hatred or violence against a person or a group of persons on account of their origin or because they belong or do not belong to a

particular ethnic group, nation, race or religion or which disseminate ideas and theories designed to justify or encourage such discrimination, hatred or violence.

The re-establishment of a dissolved group is punishable by correctional penalties of up to seven years' imprisonment for the group's organizers and when the group is an armed combat group (arts. 431-15 and 431-17 of the Penal Code).

(b) Prohibition on the sale of racist publications to minors and on any form of publicity for such publications

The Act of 31 December 1987 amended article 14 of the Act of 16 July 1949 on Publications Intended for Young Persons. It empowrs the Minister of the Interior to issue a ministerial order which prohibits offering, giving or selling to minors publications of any kind involving a danger to young persons through their emphasis on violence, discrimination or racial hatred.

The ministerial order on the publication in question may also prohibit any publicity for that publication.

The violation of the prohibition is punishable under criminal law by imprisonment for up to one year and/or a 25,000 franc fine.

(c) Prohibition on publications in a foreign language or of foreign origin containing racist tracts

Article 14 of the Act of 29 July 1881 authorizes the Minister of the Interior to issue a ministerial order to prohibit publications in a foreign language or of foreign origin and to carry out the administrative confiscation of prohibited tracts, in addition to instituting criminal proceedings. For example, the sale of the French translation of the anti-Semitic Russian work entitled "The Protocol of the Elders of Zion" was prohibited by the Ministerial Order of 25 May 1990.

When done knowingly, the sale, distribution and reproduction of prohibited newspapers and tracts are punishable by up to one year in prison and/or a 30,000 franc fine.

B. Interim relief proceedings in the civil courts

Under article 809, paragraph 1, of the new Code of Civil Procedure, the President of the High Court may, in the event of an emergency, "prescribe the necessary measures of protection either in order to prevent imminent harm or to halt an obviously unlawful disturbance".

When an emergency case has been referred to him, the judge must take a decision immediately after having heard both parties. This decision is enforceable notwithstanding an appeal. For example, the distribution in bookstores and kiosks of a magazine questioning whether the gas chambers were

used to commit murder during the Second World War was prohibited by a decision of the interim relief judge of the Paris High Court on 25 May 1987 (Paris High Court, 25 May 1987, Gaz. Pal., 1987.I.369).

## II. PENALTIES FOR RACIST OFFENCES

Under French law, a number of objectively racist acts and types of behaviour are characterized as criminal offences.

### A. Penalties for public expressions of racist thoughts

Freedom of expression and opinion is guaranteed by article 11 of the 1789 Declaration of the Rights of Man, which has constitutional rank.

However, abuses of this freedom are punishable by the Act of 29 July 1881 on Freedom of the Press, which deals with all expressions of thought either orally, in writing or by audiovisual means, provided that they are public.

The Act of 29 July 1881 on Freedom of the Press establishes a specific regime for press offences, by derogation from the ordinary law of the Penal Code and the Code of Criminal Procedure. With regard to penalties for expressions of thought, the Act is favourable to the accused: pre-trial detention is usually prohibited (art. 52 of the 1881 Act), confiscation of disputed tracts prior to trial is very restricted (art. 51 of the 1881 Act), prescription of the public right of action takes effect within a short period of three months starting from the first act of dissemination to the public (art. 65 of the 1881 Act), and the procedure for press offences is governed by a very strict system relating to voidability, which requires, inter alia, that the act in question should be defined precisely (art. 65 of the 1881 Act), and relating to proceedings (arts. 50 and 53 of the 1881 Act).

The following offences are provided for and punishable by the 1881 Act:

#### Incitement to discrimination, hatred or violence on the grounds of racial or religious origin or membership

Article 24, paragraph 6, of the 1881 Act, as amended by the Act of 1 July 1972, provides that anyone who, by any of the means referred to in article 23, incites discrimination, hatred or violence against a person or a group of persons on account of their origin or because they belong or do not belong to a particular ethnic group, nation, race or religion is liable to a penalty of up to one year in prison and/or a 300,000 franc fine.

If the racist incitement is not public (in a letter that has been sent, for example), the offence becomes a misdemeanour punishable by a fine of up to 10,000 francs (art. R.625-7 of the Penal Code).

#### Public defamation and insult on the grounds of racial or religious origin or membership

Defamation, as provided for in article 32, paragraph 2, of the 1881 Act, is the result of any allegation or attribution of specific and erroneous facts

which are prejudicial to the honour or reputation of a person on account of his race, his religion or his national or ethnic origin. Racial defamation is punishable by up to one year in prison and/or a 300,000 franc fine.

A false allegation that a person or a group of persons has committed a crime or an offence or engaged in conduct contrary to public morals, probity or patriotic duty is defamatory.

Public insult, as referred to in article 33, paragraph 3, is the result of the use of any term of contempt and any insulting language.

It differs from defamation in that defamation involves an allegation of a specific fact whose truth or falseness can be proved without difficulty. Insult does not, however, involve any allegation of specific facts.

Racial insult is punishable by up to six months' imprisonment and/or a 150,000 franc fine.

The offence of defamation or insult does not exist unless the allegations or insulting language have been publicized by one of the means referred to in the 1881 Act.

In the absence of publicity, racist insult and defamation are misdemeanours punishable by a fine of up to 5,000 francs under articles R.624-3 and R.624-4 of the Penal Code.

Advocacy of crimes against humanity

This offence was included in the 1881 Act on Freedom of the Press (art. 24, para. 3) by Act No. 87-1157 of 31 December 1987.

According to the legal writings, advocacy of crimes against humanity is constituted by a publication or public statement inciting those to whom it is addressed to make a favourable moral value judgement about one or more crimes against humanity in order to justify such crimes or their perpetrators.

Crimes against humanity are the crimes which are defined by article 6 of the Charter of the International Military Tribunal, known as the Nürnberg Tribunal, annexed to the London Agreement of 8 August 1945 and which were committed either by the members of an operation declared to be criminal (SS, Gestapo, SD, Nazi Leader Corps) or by any person found guilty of such crimes by a French or international court.

According to the legal writings, crimes against humanity are inhumane acts and persecutions which are systematically committed on behalf of a State carrying out a policy of ideological supremacy against persons because they belong to a racial or religious community or against the opponents of the policy of that State. Only crimes recognized to have been committed during the Second World War by war criminals of the European Axis countries, especially Nazi Germany, and by any person acting on behalf of those States are taken into account.

This offence is punishable by up to five years' imprisonment and/or a 300,000 franc fine.

Contesting crimes against humanity

This offence is provided for in article 24 bis of the 1881 Act and derives from the Act of 13 July 1990.

The aim is to punish the public denial of the above-mentioned crimes against humanity, as recognized by a French or international court.

This offence particularly involves persons who claim to be historians to try to demonstrate that the Nazi holocaust never existed. No text made it possible to punish persons who wrote "revisionist" or "negationist" tracts and who managed to give their comments a racist ring. The new article 24 bis now provides for criminal penalties for such a serious form of the expression of racism, which is a vector of anti-Semitism.

It is now prohibited to question the existence of the Jewish genocide committed by Nazi war criminals sentenced for crimes against humanity by the Nürnberg Tribunal.

This offence is punishable by up to one year in prison and/or a 300,000 franc fine.

B. Penalties for racist acts and behaviour

In addition to the specific provisions contained in the 1881 Act on Freedom of the Press, the Penal Code punishes discriminatory and racist acts and behaviour by private individuals or government representatives.

The following offences are thus punishable under the Penal Code and other legislation:

(1) Wearing uniforms or displaying insignia or emblems associated with the persons responsible for crimes against humanity

Under article R.645-1 of the Penal Code, a fine of up to 10,000 francs is imposed for publicly wearing a uniform or displaying insignia or emblems resembling those worn by the members of an organization declared criminal by the Nürnberg Tribunal (SS, Gestapo, SD and Nazi Commander Corps) or by any person found guilty of crimes against humanity. Such uniforms, emblems and insignia will be seized and confiscated.

This offence is not applicable where uniforms, insignia or emblems are worn or displayed for the purposes of a film, a show or an exhibition in connection with an historical evocation.

(2) Prohibition on storage of data relating to race

A specific provision on computerized data storage was created by Act No. 78-17 of 6 January 1978 on data processing, files and freedoms.

Article 226-19 of the Penal Code prohibits the storage, except with the agreement of the person concerned, of personal data showing racial origin or religious opinions.

This offence is punishable by five years' imprisonment and/or a 2 million franc fine.

(3) Displaying signs associated with racist ideology during sporting events

According to article 42-7-1 of Act No. 84-610 of 16 July 1984, as amended on 6 December 1993, anyone who introduces, wears or displays insignia, signs or symbols associated with a racist or xenophobic ideology in sports premises while a sporting event is taking place or being publicly broadcast is liable to a 100,000 franc fine and/or one year in prison.

Article 42-11 of the Act also provides that persons convicted of a violation of article 42-7-1 are liable to the additional penalty of being prohibited from entering one or more places where a sporting event takes place for a period of up to five years.

(4) Racial discrimination

The Penal Code punishes discrimination based on origin or genuine or alleged membership (or non-membership) of an ethnic group, a nation, a race or a religion, when it involves (arts. 225-1 to 225-4 of the new Penal Code):

Refusing to provide goods or services;

Obstructing the normal exercise of any economic activity;

Refusing to hire, punish or dismiss a person;

Making the provision of goods or services subject to a discriminatory condition;

Subjecting a job offer to a discriminatory condition.

The penalty for discriminatory acts is increased, since they are punishable by up to two years' imprisonment and a 200,000 franc fine.

Discrimination committed by persons vested with government authority or responsibility for a public service (art. 432-7) is defined by the above-mentioned article 225-1. The penalty to which such persons is liable is increased to up to three years' imprisonment and a 300,000 franc fine.

(5) Increase in the penalty for the offence of desecration of graves

The Code provides that the violation of the integrity of a corpse and the desecration of graves are punishable by up to one year in prison and a 100,000 franc fine. Monuments to the memory of the dead are henceforth

regarded as graves. When the desecration of a grave also involves the exhumation of the corpse, the penalty is increased to two years' imprisonment (art. 225-17).

When these offences have been committed as a result of the deceased persons' genuine or alleged membership (or non-membership) of a particular ethnic group, nation, race or religion, the penalties are increased to three years' imprisonment and a 300,000 franc fine.

The exhumation of a corpse in such conditions is punishable by five years' imprisonment and a 500,000 franc fine.

C. Criminal responsibility of corporate bodies for racist offences

The Penal Code provides that corporate bodies (such as companies, associations, etc.) other than the State may be declared criminally responsible in the cases provided for by law or by statute for offences committed on their behalf by their organs or representatives (art. 121-2 of the new Penal Code), notwithstanding the criminal responsibility of natural persons who commit, or are accessories to, such offences (art. 121-2, last subparagraph).

The conviction of corporate bodies is expressly provided for in the case of crimes against humanity (art. 213-3), discrimination (art. 225-4), violations of the rights of individuals by means of data files or data processing (art. 226-24), the maintenance or re-establishment of dissolved combat groups and movements (art. 431-21) and the display of insignia (art. R.645-1).

The list of penalties (dissolution, temporary prohibition, confiscation, court surveillance ...) contained in article 131-39 of the new Penal Code allows for the effective punishment of the corporate bodies concerned.

In all cases where the responsibility of a corporate body is engaged, the maximum fine applicable to such a body is equal to five times that provided for natural persons by the statute punishing the offence (art. 131-41 of the new Penal Code).

## III. VICTIMS PROTECTED AND REMEDIES AVAILABLE TO THEM

French law protects victims of racist-type conduct, whether they are private individuals, a group of persons or a corporate body.

They are afforded the traditional remedies and also have the possibility of acting through associations which combat racism.

The victim of an offence under the 1881 Act (oral or written racist remarks directed against them) has, in addition, a right of reply.

## A. VICTIMS PROTECTED

Victims of offences with racist or religious motivations may be a person designated individually or a group of persons recognizable on account of their origin or membership (or non-membership) of a particular ethnic group, nation, race or religion.

This enumeration makes it possible to protect not only persons of colour or believers of a particular religion (Christians, Muslims, Jews, etc.), but also those who are designated by their nationality (anti-French "racism", for example) or by their membership of a particular regional group (such as Basques or Corsicans).

## B. VARIETY OF REMEDIES AVAILABLE

### (1) Ordinary remedies

Victims may, within the periods allowed by the law, institute criminal proceedings against the perpetrators of any of these offences using the traditional means available to any victim of an offence:

Issuing of a summons, whereby direct application may be made to the criminal courts without a preliminary examination, the person identified as having committed the offence being served notice by a marshal;

Lodging of a complaint directly with the Government Procurator, or with the police for transmittal to the Procurator, who will consider the merits of the complaint and decide what action must be taken;

Institution of criminal indemnification proceedings: during the criminal proceedings, the victim may claim indemnification for injury caused to him or her by the offence;

Filing of a complaint with the examining magistrate to institute indemnification proceedings.

The Government Procurator's Office may itself institute criminal proceedings.

### (2) Special role of associations combating racism

The legislature has sought to give associations which combat racism a special role in instituting criminal proceedings.

Victims are very often not aware of their rights or not prepared to lodge a complaint. The intervention of an association, aside even from the case in which the association itself claims to have suffered injury, offers them assistance and support. It also allows class actions to be brought when several persons are victims of the same offence.

#### Associations authorized to act

Article 48-1 of the 1881 Act, resulting from the Act of 1 July 1972, authorizes associations proposing under their statutes "to combat racism" to exercise the rights granted to the claimant for criminal indemnification. The

Act of 13 July 1990 extended that possibility to associations which propose "to assist victims of discrimination based on their national, ethnic, racial or religious origin". This text covers the offences provided for by the last paragraph of article 24, article 32, paragraph 2, and article 33, paragraph 2, i.e. incitement to discrimination, hatred or violence, defamation or insults of a racial character.

The creation of the new offence of contesting crimes against humanity in article 24 bis has led the legislature to insert an article 48-2 in the Press Act permitting the rights granted to the claimant for criminal indemnification to be exercised by "any association regularly declared for at least five years as at the date of the events and proposing under its statutes to defend the moral interests and honour of the Resistance or deportees". This text relates to the questioning of crimes against humanity (art. 24 bis), but also "advocacy of war crimes, crimes against humanity or crimes or offences of collaboration with the enemy", punishable under article 24, paragraph 3.

Any association regularly declared for at least five years as at the date of the events and proposing under its statutes to combat racism or to assist victims of racist offences may exercise the rights granted to the claimant for criminal indemnification in respect of discriminatory acts provided for by articles 225-2 and 432-7 of the new Penal Code and attacks on persons or property constituting offences under articles 221-1 to 221-4, 222-1 to 222-18 and 322-1 to 322-13 of the new Penal Code which have been committed to the detriment of a person on account of his national origin or membership or non-membership of a particular ethnic group, race or religion (art. 2-1 of the Code of Criminal Procedure, as worded on the basis of Act No. 85-10 of 3 January 1985).

In addition, pursuant to article 48-1 of the Act on Freedom of the Press of 29 July 1881, such associations may exercise the rights granted to the claimant for criminal indemnification in respect of the offences of incitement to hatred and racial discrimination, racial defamation or insults, subject, in the case of offences committed against persons treated individually, to the consent of the latter.

The associations may therefore formally notify the Government Procurator's Office of the existence of an offence and even institute criminal proceedings directly by means of a summons or by filing a claim for criminal indemnification with the examining magistrate. However, to ensure greater consistency as far as penalties are concerned and to avoid procedural disputes, the associations are advised to act with discernment and in close consultation with the Government Procurator having jurisdiction.

Right of reply instituted for the benefit of associations

Article 13 of the Press Act accords a right of reply "to any person named or designated in a daily newspaper or periodical". Jurisprudence admits this right as being granted both to corporate bodies and to private individuals. Therefore, if associations meeting the conditions provided for by articles 48-1 or 48-2 are defamed personally, they are naturally able to exercise their right of reply.

The innovation brought by the Act of 13 July 1990 is the recognition that these associations can exercise the right of reply in place of the persons defamed, either in the press or on radio or television.

Right of reply in the press

A new article 13-1 has been inserted in the 1881 Act to enable associations meeting the conditions of article 48-1 to exercise the right of reply "when a person or group of persons have been subjected, in a newspaper or periodical, to charges which may injure their honour or reputation on account of their origin or membership or non-membership of a particular ethnic group, nation, race or religion".

The Act does, however, place two limitations on the power of the associations.

First, when the accusation concerns persons treated individually, the association cannot exercise the right of reply unless it is able to show that it has their consent. Some victims may feel that the best answer is to remain silent, in order to protect their privacy, rather than give greater and renewed emphasis to the charges with the publication of a clarification.

Secondly, in order to avoid cumulative or repeated proceedings, article 13-1 provides that, where a reply has been published at the request of an association under the terms of article 48-1, "no association may demand the insertion of a further reply".

Right of reply on radio or television

The exercise of this right raises specific technical problems. The legislation providing for the exercise of the right of reply on radio or television is Act No. 82-652 of 29 July 1982, as amended by the Act of 30 September 1986 and supplemented by a decree of 6 April 1987.

Article 6 of this Act has been supplemented by the Act of 13 July 1990 to permit associations meeting the conditions of article 48-1 of the Press Act to exercise the right of reply when the defamatory remarks concern a person or group of persons. This text is couched in the same terms as article 13-1 of the 1881 Act and contains the same limitations: consent of the person in question and prohibition of further claims once a reply has been broadcast at the request of an association.

## IV. PROSPECTS FOR LEGISLATION

A preliminary draft of a law to combat the dissemination of racist or xenophobic ideas is in preparation. This draft was submitted for comment, in the process of its elaboration, to the National Consultative Commission on Human Rights.

# CHAPTER II

## ACTION BY THE MINISTRY OF JUSTICE AND THE COURTS TO COMBAT RACISM AND XENOPHOBIA IN 1994

### I. THE ROLE OF THE MINISTRY OF JUSTICE IN RESPECT OF RACIST CRIME

On 10 December 1993, at the plenary meeting of the French National Consultative Commission on Human Rights held at the Ministry of Justice, Mr. Pierre Mehaignerie, the Minister of Justice, said he was concerned to ensure that prevention is encouraged as an essential measure in this field, especially as far as young adolescents are concerned.

Early in 1994, 50,000 copies of a pamphlet entitled "Guide to anti-racist legislation" were distributed free of charge by the Ministry of Justice. This practical guide was intended to perform the often neglected task of informing the public at large by offering an overview of the various racist offences and the remedies available to the victims.

On the basis of the circular issued by the Department of Criminal Cases and Pardons on 12 March 1993, the active participation of Government Procurators in departmental units to combat racism makes it possible to meet with anti-racist associations, discuss local problems together and exchange information. The "departmental coordination unit to combat racism, xenophobia and antisemitism", set up within each "departmental council for the prevention of delinquency" under the circular issued by the Prime Minister to the prefects on 1 March 1993, meets at least once a year to monitor problems of racism, initiate warning procedures, if necessary, collect information on local criminal policy, promote the amicable settlement of disputes and, in the light of particular local characteristics, propose measures to strengthen social cohesiveness.

Thus, as a result of the firm and vigilant implementation of criminal legislation on racism deriving from the many circulars on the public right of action issued to the Government Procurator's Office since 1972, a policy for the prevention of racist crime has been taking shape with the assistance of the Prosecution Service.

### II. JUDICIAL MEASURES TO PREVENT RACIST OFFENCES IN THE CONTEXT OF URBAN POLICY

Most districts which are underprivileged both in terms of town planning and in economic, social or cultural terms are hosts to a large proportion of foreign families or families of foreign origin who are usually over-represented in such areas. Neighbourhood conflicts arising out of different cultural practices are common.

Urban judicial policy, which is designed to develop a system of neighbourhood justice by providing for mediation in criminal matters and setting up remand centres and duty offices for aid-to-victims' associations in these sensitive areas goes a long way towards preventing conflicts related to problems of cohabitation.

By 20 October 1994, 32 remand centres and 10 justice agencies had been set up in 12 departments that have priority where urban policy is concerned. Working out of premises provided by the municipal authorities, these structures make it possible for the public right of action to be exercised in a decentralized and diversified way in respect of petty crime; established criminal law procedures for dealing with insults can thus be brought into play promptly.

These structures also make it easier to re-establish law and order and set up mediation on criminal matters by neutral third parties. These procedures are particularly well suited to settling neighbourhood conflicts of a xenophobic or even a racist nature. In 1993, such a measure was taken in 22,000 criminal cases.

The Ministry of Justice subsidizes a network of 155 associations for assistance to the victims of criminal offences and encourages their establishment in problem districts.

## III. MANIFESTATIONS OF RACISM PUNISHED BY THE COURTS

### A. Manifestations of racism punished by civil courts

Manifestations of racism and xenophobia are not confined to the criminal courts. The civil courts sometimes hear cases which involve action to combat racism. Two recent cases warrant particular attention.

In its mail order catalogue, a company headed by the president of a small allegedly pro-Nazi group was offering a range of German National Socialist Party, SS, Waffen-SS, Celtic, nationalist, Bonapartist or esoteric-style badges, pins, armbands, belt-buckles, signet rings, busts of Hitler, knives and caps, as well as a subscription voucher for the soon-to-be published book by the late Léon Degrelle entitled "Hitler pour mille ans".

On 11 July, by an order based on article 809, paragraph 1, of the new Code of Civil Procedure, the interim relief judge of the Paris High Court ordered the mail order company to stop distributing its catalogue unless it deleted the reference to a book and badges "with Nazi overtones".

The interim relief judge based his decision on the fact that the mail order system in question was an incitement constituting imminent harm, "for an immediate threat necessarily exists when the injurious act is imminent, as in the case in question (...) so that, if the company has not already undertaken to sell the objects listed in the catalogue in this way, it is perfectly at liberty to distribute or display the catalogue at any time in public places; moreover, to put these objects up for sale may also immediately lead to their use, which is tantamount to serving as a vehicle for nostalgic reminiscing about nazism, with its indissoluble links to the notion of racism". This decision was appealed by the defendant (No. 94-17 A15).

On 7 July 1994, because of the distribution of this catalogue, the Government Procurator of the Meaux High Court ordered examination proceedings to be instituted against persons unnamed on charges of "incitement, as a result of the distribution of documents, printed matter, drawings or emblems, to discrimination against or hatred of persons on the grounds of their membership or non-membership of a particular ethnic group, race or nation".

The examination proceedings will come up against the problem of determining the public nature of the offence and classifying the acts reported in criminal terms as incitement to racism.

On 9 November 1992, an association was registered with the sub-prefecture of Fontainebleau for the purpose "of holding an open debate and conducting a scientific investigation into the question whether gas chambers were used to kill people during the Second World War" and "of obtaining the rehabilitation of persons prosecuted for contesting those facts".

Following proceedings in which a number of incidents occurred, the Fontainebleau High Court found the association to be invalid and ordered that it should be dissolved on the basis of article 7 of the Act of 1 July 1901.

Since the lawful nature of its purpose is a basic condition for the validity of an association, the court considered that, on the basis of its statutes, this association had been established publicly to contest the existence of the crimes against humanity committed by the National Socialists during the Second World War, an activity prohibited by article 24 bis of the Act of 28 July 1881 on Freedom of the Press (No. 93-127 A4).

B. Manifestations of racism punished by the criminal courts

An analysis of the case law identified by the criminal courts applying anti-racist legislation to specific cases helps to understand the situation with regard to racist behaviour and ways of, and the problems involved in, punishing them.

It may be useful to look at some examples taken from proceedings and decisions on racism.

(1) Proceedings on charges of incitement to discrimination, hatred or racial violence

On 6 January 1994, the fourth correctional division of the Lyon Court of Appeal sentenced the mayor of a small town in central France to a 10,000 franc fine with a suspended sentence and the publication of the judgement because, in June 1993, he published an article in the town newsletter of the commune which contained the following passages: "Immigration is flooding our commune. What is worse, the immigrants are all of one nationality, and this encourages an anti-French feeling of duality. Why this proliferation of immigration, this occupation? What has happened to integration? Insecurity is already partly the results of this immigration: problems in school, bullying, attacks (...). From the time of Charles Martel to that of Charles de Gaulle, the French have been capable of making a clean sweep when necessary. I think they still could if they were asked to".

The court, upholding the ruling in first instance, recalled that it was not unlawful for a mayor to state his views on immigration and crime. However, "he should do so without naming the Turkish settlement in X... as being the cause of all the unpleasantness in the commune and without using pejorative terms". The court concluded that an article of this kind was liable to "stir up hatred between the two communities" and held that the accused was guilty on the grounds of incitement to racial hatred. The sentence is now final (No. 93-1013 A4).

During the municipal elections campaign of March 1990, in C...(92), the candidate X. published an article in a local newsletter illustrated by a drawing of a queue at a municipal office for the allocation of low-rent housing showing four persons of African and Arab origin, the first of whom is being given a rent contract, while a local woman loses patience and says, "I often get the impression that I'm not welcome in C...". In March 1990, X. published an article in the same newsletter alleging that the communist mayor of C... had "allowed the northern districts to be invaded by immigrants" and was turning the town into "a Soviet Muslim republic". In March 1990, X. distributed yet another pamphlet entitled "(...) Do you recognize your mayor?", illustrated on the back with a photograph of Muslims at prayer on Sunday, 26 February 1989, in the Place de la République in Paris, with the title "I am in favour of the right to vote for immigrants - Z., French Communist Party mayor of C...".

As the result of a complaint and criminal indemnification proceedings instituted by the Ligne des Droits de l'Homme, proceedings were brought against X. for these publications before the correctional court on the basis of article 24, paragraph 6, of the 1881 Act.

On 7 October 1991, the Versailles court of appeal acquitted X. on the following grounds. With reference to the first of the texts in question, "The fact of portraying a queue at the low-rent housing office with a large proportion of residents made to look as if they were foreigners and behind them a person apparently of French nationality who states that she has the impression that she is not welcome in C... is neither discrimination nor incitement to racial hatred, since the text and the drawing merely reflect a local situation resulting from the town council's policy" and the immigrants are not in a particular ethnic, racial or religious category.

With regard to the second document, the judges pointed out that the article is basically against municipal policy, that the term "invasion" is not necessarily pejorative, that the term "Soviet Muslim republic" refers to the town council which is in office and is Communist and that the article as a whole, which is intended for the election campaign, is not incendiary enough to constitute incitement to racial hatred.

As to the third document, the judges point out that the photograph published represents an objective fact, the reproduction of which is no more reprehensible than the sight itself and that the fact of opposing the granting of the right of vote to foreigners cannot be regarded as a call to hate them, since the right of vote is, according to the law and the Constitution, reserved for French nationals only.

By a decree of 18 January 1994, the Criminal Division of the Court of Cassation considered that the Court of Appeal had sovereignly weighed up the extrinsic elements of the documents submitted to it and had justified its decision of acquittal (No. 90-1718 A4).

(2) Proceedings for racial defamation and insult

By an order of 6 January 1994, the Versailles court of appeal sentenced Mr. X. to 18 months' imprisonment with a suspended sentence and three years' probation, with an obligation to compensate the victim (60,000 francs), on charges of destruction of property, racial defamation and insult.

X. lived next door to Mr. and Mrs. Y.; he had damaged their fence and, while out in his garden and in the presence of witnesses, had made the following remarks to Y., who was Jewish: "You're still alive because you led the dance for people like your father and your mother, who went to the gas chambers, everyone knows that", and "Stupid bastards, I'm always rude to their faces" (No. 93-29 A4).

(3) Proceedings for advocacy of crimes against humanity, contesting crimes against humanity and displaying illicit symbols

On 2 July 1993, the weekly R. carried a drawing entitled "The liberation of Buchenwald", depicting an American soldier asking five deportees: "Where are the gas chambers?", with the deportees replying by pointing in four different directions. The drawing went with an article entitled "Television - another documentary full of hot air", which reviewed a film shown on ARTE channel about the liberation of the German concentration camps by the United States Army at the end of the Second World War. The review stated, for example: "It has now been established that there were never any gas chambers for killing people in the territory of the Third Reich".

On the initiative of the Government Procurator's Office, the publications director of the weekly and the artist who drew the picture were referred to the correctional court on the charge of contesting crimes against humanity and were sentenced on that charge by the Paris High Court on 10 January 1994. By a decision of 8 June 1994, the Paris Court of Appeal upheld the judgement, whereby each of the accused was sentenced to a fine of 10,000 francs and to pay 3,000 francs in damages and 15,000 francs on the basis of article 475-1 of the Code of Criminal Procedure to each of the four associations which were claimants for criminal indemnification, as well as the publication of a statement in the newspaper in question (No. 93-1337 A4).

On 22 August 1993, an unemployed 29-year-old man was stopped by a police patrol as he drove around aimlessly on a moped while dressed in a German Waffen SS uniform and carrying a bayonet-type dagger. On 16 March 1994, he was charged by the Poitiers correctional court with carrying a prohibited weapon and wearing the uniform of an organization declared to be criminal and sentenced to a four-month suspended sentence and 200 hours of public service over a period of 18 months, together with a 4,000 franc fine and the confiscation of the uniform and the weapon (No. 93-29).

(4) Proceedings for racial discrimination

On 2 May 1994, the Rouen Court of Appeal sentenced Mr. X. to a 5,000 franc fine for refusing to hire a cleaning woman when he was the manager of a tennis and squash club and justifying his attitude in writing by saying: "A person of colour - impossible" (No. 93-1914 A4).

(5) Proceedings for putting prohibited works up for sale

On 15 March 1994, the police discovered 46 volumes of the "Revue d'histoire revisionniste" (Review of revisionist history) on the shelves of a Bordeaux bookshop in violation of the Ministerial Decree of 2 July 1991 banning this review from being offered for sale on the basis of article 14 of Act No. 49-596 of 16 July 1949 on publications for young people.

On 6 July 1994, the bookshop owner, who was a first offender, was sentenced by the Bordeaux correctional court to one year's imprisonment, six months as a suspended sentence, a 20,000 franc fine and the confiscation of the articles seized. He appealed the sentence (No. 94-640 A4).

(6) Violent racist or allegedly racist offences and desecration of graves

On 16 March 1994, 30 graves were desecrated in the cemetery of Saint-Laurent de Brevedent (76). Crosses, name plates and flower vases were broken. The perpetrators also drew a Nazi swastika on the ground.

Following an inquiry, three young men were arrested; they admitted the facts and were placed under a detention warrant on 9 August 1994 by the examining judge of Le Havre. One had already been sentenced to one year's imprisonment for the same acts on 23 December 1991 by the correctional court of Le Havre (No. 94-1104 A13).

On 5 February 1994 at 5.05 a.m. in Ajaccio, a Moroccan refuse collector, married with children, was fatally injured by shots from a vehicle as he was collecting household refuse. Shortly before, two employees of the refuse collection service, also North Africans, had been similarly attacked, but fortunately were not physically injured.

Judicial examination proceedings were immediately instituted. On 14 January 1994, four youths were placed under investigation on charges of murder and attempted murder and put under a criminal detention warrant (No. 94-282 B21).

In the night of 17 to 18 September 1994, individuals broke into the Nantes mosque and lit a fire which caused considerable property damage.

Judicial examination proceedings were instituted for arson (No. 94-1112 A13).

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